

10th July 2019

**Policy, Resources and Economic Development
Committee**

Right to Buy Capital Receipts

Report Of: *Angela Abbott – Housing Services Manager*

Wards Affected: *All wards*

This report is: *Public*

1. Executive Summary

1.1 At the Environment, Enforcement & Housing Committee held on the 25th June 2019 approval was given in relation to three recommendations concerning future housing development projects.

- The Environment, Enforcement & Housing Committee approved the following recommendations: *That the Committee formally approve Option 1 (to implement the capital receipts expenditure mechanism.*
- *That the Committee formally approves delegated authority for the Housing Services Manager to designate sites for re-development and submit outline planning permission for those sites.*
- *That if agreed, the proposal is referred to the Council's Policy, Resources and Economic Development Committee for approval.*

1.2 An excerpt of the Minutes of the Environment, Enforcement & Housing Committee are as per Appendix A. The Committee approved the recommendations unanimously.

1.3 This report sets out proposals to adopt a formal capital receipts expenditure mechanism relating to Right to Buy ('RTB') sales. The mechanism will allow for a more focussed and transparent approach to expenditure of monies from the sale of HRA housing stock (known as 'RTB capital receipts')

- 1.4 The mechanism is a high-level approach to ensuring that capital receipts are retained by the Council and allocated to garage site re-developments with outline planning permission. The purpose is to increase efficiency and to provide improved value for money through site-specific building projects.
- 1.5 The mechanism will adopt the procedure of seeking outline planning permissions and then linking earmarked capital receipts. Protection of the receipts in a timely manner will allow for subsequent approval of site-specific projects by Committee and consideration of detailed feasibility reports.

2. Recommendations

- 2.1 **That the PRED Committee formally approve Option 1 (to implement the capital receipts expenditure mechanism).**
- 2.2 **That the PRED Committee formally approves delegated authority for the Housing Services Manager in consultation with the Chair and/or Vice Chair of Environment, Enforcement and Housing Committee to designate sites for re-development and submit outline planning permission for those sites.**

3. Introduction and Background

- 3.1 Under current Right to Buy legislation council tenants have the right to buy their home at a discount, with the amount of discount dependent upon the length of time as a social tenant.
- 3.2 In previous years 75% of proceeds from RTB sales of Council dwellings were paid into a national pool run by the Department of Communities and Local Government ('DCLG'), now known as the Ministry for Housing, Communities and Local Government ('MHCLG').
- 3.3 The receipts were then redistributed to those authorities with the greatest housing needs as identified by regional housing boards. The remaining receipts were used to fund capital works in the authority.
- 3.4 On the 2nd April 2012, the pooling arrangement changed. Ministers confirmed that delivering the new homes would be through Local Authorities retaining receipts to spend in their own area.

3.5 Brentwood Borough Council entered into an agreement with the Secretary of State for Communities and Local Government to retain the additional RTB receipts on the 26th June 2012.

The key principles of the agreement are as follows:

- The Secretary of State agrees to allow the authority to retain additional RTB receipts to fund the provision of replacement stock.
- The Secretary of State will allow the authority three years (from commencement of agreement) to invest the receipts before asking for the money to be returned if they have not been invested.
- The agreement does not require a local authority to complete the building of a home within 3 years.
- The agreement requires an authority to have incurred expenditure that is no more than 30% of the total spends on replacement stock.
- Replacement could be one of 3 ways – newly built Council homes, acquiring houses on the open market or provision of grants to Housing Associations to build new homes.
- Brentwood Council agrees to return any unused receipts to the Secretary of State with Interest at 4% above base rate, compounded quarterly.

3.6 Under the terms of current agreements, made under section 11 (6) of the Local Government Act 2003, local authorities are required to spend retained Right to Buy receipts within three years.

3.7 Since the scheme commenced, the Council has retained £5,760,967 of right to buy receipts as at 31st March 2019.

3.8 These retained receipts can fund 30% of the cost of replacing housing stock. Therefore, the total spends required on replacement stock is £19,203,224.

3.9 Based on current financial projections it is assumed that the Council will continue to dispose of housing stock through RTBs at an average of 8 properties per year. Therefore, the projected spend required on Affordable Housing is circa £2 million per annum from 2022/23.

3.10 The planned future spend is based on the retained receipts as per Appendix B. If capital receipts are not spent or ear-marked according to

the Government's funding regulations, then monies must be returned with additional compound interest to central Government.

- 3.11 The receipts must be spent by specified deadlines (as per Appendix B). The Council to date has incurred expenditure of £9,962,719 and added 33 dwellings to its housing stock. Of these, 26 have been purchased from the open market and 7 have been developed by the Council. All have been let at an 'Affordable Rent', as per the Rents Policy 2015. The spend tracker is detailed within Appendix C.
- 3.12 Expenditure per unit on Council New Builds has been circa £257k per unit on average. Expenditure per unit on Private Market Acquisitions has been circa £303k per unit on average.
- 3.13 It is held that developing new sites is economically more viable than continuing to purchase ad hoc via the market. Emerging sites are potentially going to return a higher number of units than previous projects, so as to reduce the average unit cost even lower than above.
- 3.14 Expenditure at the above rate using properties sourced from the local housing market is deemed to be financially inefficient and is not supporting wider housing build projects within the HRA nor efficient use of HRA land/assets, which should produce a far higher housing stock yield.

4. Issue, Options and Analysis of Options

- 4.1 The mechanism proposed front-loads the procedure for allocating RTB monies to site-specific construction projects with outline planning proposals, without Committee approval at the initial stage. It will allow for a more streamlined and efficient method of retaining the RTB monies for use within the Borough.
- 4.2 If outline planning permission is granted for affordable housing provision, then detailed evidence will be submitted to Committee to approve/reject the proposed development on each specific site.

Option 1: Implementation of the mechanism

- 4.3 Implementing the mechanism will allow for:
 - Transparency, particularly for residents
 - Tailored service provision
 - Economic focus

- Audit compliance
- Provisioning for a cohesive approach to garage site redevelopment
- Development of an economically sound affordable housing strategy

Option 2: Non-implementation of the mechanism

4.4 Non-implementation will potentially:

- Fail to advance Corporate priorities
- Undermine the development of an affordable housing strategy
- Create lack of focus on expenditure
- Undermine best value in terms of development and regeneration with the housing stock.

5. Reasons for Recommendation

5.1 Option 1 is recommended as the most transparent option for the Council and supports the '*Getting our House in Order*' transformation programme for Housing Services. It works towards ensuring financial stability and revenue protection.

5.2 Taking no further action will fail to advance corporate priorities and would be counter to our modernisation approach and monetary responsibilities.

5.3 Option 1 ensures the Council meets the requirement of the agreement the Council entered into on 26th June 2012 with the Secretary of State, to retain additional RTB receipts and commit these within 3 years of disposal.

5.4 By not committing the investment there is a high degree of financial risk imposed on the Council. Any retained funds not committed within 3 years is subject to interest chargeable on the retained amount at 4% above base rate, compounded quarterly.

5.5 Every quarter, officers have to submit a return to MHCLG, detailing the RTB's completed, the amount that has been spent and the projected future spend on affordable housing. This return calculates whether deadlines of spend have been adhered to.

5.6 Therefore Option 1, allows the Council to commit investment of retained right to buy receipts when outline planning permission is granted, due to

the outline planning application, allocating assumed build costs to the project.

- 5.7 Appendix B details the spend that has yet to be incurred by the Council. Option 1 ensures the Council can meet the short-term spending requirements, whilst a mid to long term strategy is developed around the Council's garage site developments and Affordable housing developments aligned with current spending requirements and future projections.

6. Consultation

- 6.1 Consultation on individual site projects will be undertaken prior to formal approval being given by Committee. Public approval of the outline spending mechanism itself is not required. Prior consultation relating to building affordable homes has been fully supported by Tenant Talkback.

7. References to Corporate Plan

- 7.1 The Council's Corporate Plan aims to deliver safe and comfortable homes which are efficient and sustainable. To manage our stock to recognise the limited resources available and supporting those in greatest need. To review the future delivery of housing services to provides the best outcomes for Brentwood residents.
- 7.2 Through adopting the above recommendations and implementing a coherent capital receipt expenditure regime then each of the aims listed above can be promoted.

8. Implications

Financial Implications

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- 8.1 Purchasing properties off the open market is not the most cost-effective way of delivering affordable housing within the Borough. However, due to the strict criteria local authorities nationally have struggled to spend the retained receipts and have opted to purchase properties off the open market. This accounts for around 40% of the replacement stock nationally.
- 8.2 Acquisitions have been highlighted to MHCLG as one of the problem areas affecting replacement, this has an impact on the level of new supply being achieved through Right to Buy receipts. Acquisition in

Brentwood is not cheaper than new build. However, acquisitions can be effective in addressing local need and bringing empty properties back into use.

- 8.3 By not meeting the Government deadline, there is a high degree of financial risk imposed on the Council. An example is that if the December 2019 deadline is not met the Council would be expected to pay £54,407 in interest costs. If all deadlines are not met this becomes a significant sum the Housing Revenue Account cannot afford.
- 8.4 The Council does have the option to return the retained right to buy receipts. This is done through the quarterly Pooling of Housing Capital Receipts return. If the funds are returned in the quarter they were receipted, then no interest is payable. However, if retained receipts are returned after the quarter they were receipted, interest is payable from the day they were receipted to the day they were returned to Central Government.
- 8.5 There is no provision built within the HRA budget for repayment of receipts plus interest. The current 30-year Business Plan assumes the receipts will be retained and spent in accordance with the regulations and deadlines imposed.
- 8.6 The interest rate is deliberately set high to encourage authorities to invest in replacement stock and to ensure authorities surrender the receipts as soon as they realise no spend will occur in the time period.
- 8.7 By allocating funds to site-specific projects with outline planning proposals, this satisfies the requirement with MHCLG. This is due to the sites detailing the amount of Affordable Housing being proposed and the required development costs. Therefore 30% of these costs can be earmarked from the retained right to buy receipts.

Legal Implications

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- 8.8 The recommendations are within the Council's powers and duties. Under current legislation the Council is required to spend retained Right to Buy receipts within three years or return this to Central Government with interest. Any planning application should comply with the Council's Local Plan.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

8.8 None

9. Background Papers (include their location and identify whether any are exempt or protected by copyright)

9.1 None

10. Appendices to this report

Appendix A: Excerpt of Minutes EEH 25.6.19

Appendix B: HRA Capital Receipt Expenditure Tracker

Appendix C: Affordable Housing Development Spend Tracker

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